

1 Susan L. Oliver, Esq. (Bar No. 160902)
2 Emily M. Straub, Esq. (Bar No. 259141)
3 TYSON & MENDES
4 5661 La Jolla Boulevard
5 La Jolla, CA 92037
6 Telephone: (858) 459-4400

7 Attorneys for Defendant DAVID ARAMBULA

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO – HALL OF JUSTICE

10 CHRISTOPHER WILLIAMS,

11 Plaintiff,

12 v.

13 DAVID ARAMBULA; CITY OF LEMON
14 GROVE; and DOES 1 through 1,000,

15 Defendants.
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Case No. 37-2018-00023369-CU-PO-CTL
[Complaint Filed: May 11, 2018]

Judge: Hon. Richard S. Whitney
Dept: C-68

**REPLY BRIEF IN SUPPORT OF
DEFENDANT DAVID ARAMBULA'S
MOTION TO COMPEL PLAINTIFF
CHRISTOPHER WILLIAMS TO
ANSWER DEPOSITION QUESTIONS
AND PRODUCE DOCUMENTS, AND
TO REQUEST RELIEF FROM THE
SEVEN-HOUR DEPOSITION RULE**

Hearing

Date: June 14, 2019
Time: 10:30 a.m.
Dept: C-68

Trial Date: December 13, 2019

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23 **I. INTRODUCTION**

24 Defendant David Arambula (“ARAMBULA”) agrees with Plaintiff Christopher Williams
25 (“PLAINTIFF”) on one point – ARAMBULA should not have been forced to file the instant motion
26 to protect his discovery rights. But, PLAINTIFF left ARAMBULA with no choice. What more could
27 ARAMBULA have done to avoid filing his motion without waiving his right to discover information
28 and documents directly relevant to (1) PLAINTIFF’s damage claims, and (2) PLAINTIFF’s position

1 the rejection of his medical marijuana dispensary (“MMD”) applications and associated appeals
2 lacked merit? The answer: Nothing. ARAMBULA’s numerous documented attempts to resolve the
3 issues in dispute speak for themselves. Had PLAINTIFF (1) not refused to provide ARAMBULA
4 an extension of time to file his motion, and (2) responded in substance and good faith to
5 ARAMBULA’s repeated attempts to meet and confer, perhaps the parties could have resolved the
6 issues in dispute on their own. Unfortunately, neither of these things took place.

7 While ARAMBULA appreciates PLAINTIFF’s willingness to *now* answer deposition
8 questions bearing on the *existence*, if any, of (1) documents responsive to ARAMBULA’s document
9 requests, and (2) business plans and budgets for PLAINTIFF’s prospective MMD businesses,
10 ARAMBULA’s right to discover information and documents concerning these topics does not end
11 there. PLAINTIFF’s opposition does not cite any legal authority to support the positions he takes in
12 partial opposition to ARAMBULA’s motion. Likewise, PLAINTIFF’s opposition contains no good
13 faith explanation warranting a reprieve from monetary sanctions. Good cause exists to grant
14 ARAMBULA’s motion in full as a matter of law.

15 **II. THE COURT’S MSJ DENIAL HAS NOT BEARING ON ARAMBULA’S**
16 **DISCOVERY RIGHTS**

17 PLAINTIFF represents he will *now* allow ARAMBULA to answer questions about:
18 (1) whether documents responsive to ARAMBULA’s document requests *exist* concerning
19 PLAINTIFF’s MMD applications, (2) whether business models *exist* for PLAINTIFF’s four
20 prospective MMD businesses, and (3) whether budgets *exist* for PLAINTIFF’s four prospective
21 MMD businesses. At the same time, PLAINTIFF contends he should not have to produce any
22 documents relative to his MMD applications or prospective MMD businesses because those items
23 are somehow beyond the scope of discovery in light of the Court’s February 2019 ruling denying
24 the City of Lemon Grove’s (the “City”) motion for summary judgment. (February 11, 2019 Minute
25 Order at pp. 2-3 appended to February 28, 2019 e-mail from ARAMBULA to PLAINTIFF, attached
26 as Exhibit 10 to Notice of Lodgment (“Plaintiff cannot show that the act to deny any of his
27 applications was not a discretionary act and not immune from liability.”).) The law does not support
28 PLAINTIFF’s position.

1 The denial of a motion for summary judgment or summary adjudication has no determinative
2 effect on case claims or issues. (*Schulze v. Schulze* (1953) 121 Cal.App.2d 75, 83.) Instead, the denial
3 “simply establishes the existence of a triable issue of fact. It does not decide the issue.” (*Transport*
4 *Ins. Co. v. TIG Ins. Co.* (2012) 202 Cal.App.4th 984, 1009.)

5 Here, there is nothing in the Court’s ruling on the City’s motion for summary judgment that
6 provides a binding determination bearing on discovery or evidentiary issues. As such, it remains
7 curious why PLAINTIFF continues to refuse to stipulate to waive his claim for lost monies from his
8 prospective medical marijuana dispensary businesses necessary to do away with ARAMBULA’s
9 and the City’s the need to discovery information and documents bearing on such claim. Whatever
10 the reason may be, it does not warrant depriving ARAMBULA of his right to discovery. PLAINTIFF
11 cannot have it both ways. Documents and information bearing on PLAINTIFF’s MMD applications,
12 MMD application appeals, and MMD business plans unquestionably fall within the ambit of
13 permissible discovery. (Code Civ. Proc. § 2017.010.) PLAINTIFF places the business plans and
14 finances of his prospective MMD at issue, thereby waiving any privilege in this regard. (*See, e.g.,*
15 *Weingarten v. Sup. Ct.* (2002) 102 Cal.App.4th 268, 274.) Good cause therefore exists for the Court
16 to grant ARAMBULA’s motion in full.

17 **III. ARAMBULA’S PROPOSAL REGARDING PLAINTIFF’S CHILDREN’S NAMES**
18 **STILL STANDS**

19 ARAMBULA proposed a compromise to PLAINTIFF concerning the discovery of the
20 names of his two minor children, in order to limit the issues current in dispute in ARAMBULA’s
21 motion. More specifically, as one of the points of ARAMBULA’s proposed stipulation,
22 ARAMBULA offered to waive his right to discover the names of PLAINTIFF’s children so long as
23 PLAINTIFF agreed he would not call his children as witnesses during trial. While a stipulation could
24 not be reached, ARAMBULA’s proposal with regard to PLAINTIFF’s children still stands.

25 As a stipulation is not currently in place between the parties, ARAMBULA requests the
26 Court order PLAINTIFF to disclose the names of his two children during a second volume of
27 deposition. The names of PLAINTIFF’s children are not privileged. (Code Civ. Proc. § 2017.010;
28 *Puerto v. Sup. Ct.* (2008) 158 Cal.App.4th 1242, 1249-1250.) PLAINTIFF’s children surely have

1 knowledge of discoverable information bearing on PLAINTIFF's general damage claims, and are
2 therefore relevant fact witnesses who ARAMBULA may wish to depose. Indeed, PLAINTIFF's
3 children live with PLAINTIFF and otherwise bear witness to the daily impact the alleged injuries
4 and recovery process had on PLAINTIFF. Furthermore, PLAINTIFF testified to various ways in
5 which the subject physical altercation affected (a) PLAINTIFF's ability to participate in activities
6 with his children, and (b) his relationship with his children.

7 Provided the parties are able to execute a formal written stipulation before PLAINTIFF's
8 second volume of deposition doing concerning the discovery of the children's names, there will be
9 no need for ARAMBULA to seek such information during PLAINTIFF's further deposition.

10 **IV. THE OPPOSITION DOES NOT ADDRESS 17 CATEGORIES OF DOCUMENT**
11 **REQUESTS AT ISSUE IN ARAMBULA'S MOTION**

12 PLAINTIFF's failure to address 17 categories of document requests at issue in
13 ARAMBULA's motion is yet another reason PLAINTIFF should be compelled to produce
14 documents responsive to these requests. The opposition makes no mention of the following
15 document requests:

- 16 • Photographs depicting the physical injuries PLAINTIFF attributes to the subject
17 altercation (Category No. 1);
- 18 • Documents that evidence and/or depict the amount(s) of past and future lost earnings
19 PLAINTIFF seeks to recover in this lawsuit (Category Nos. 2 and 4);
- 20 • Documents that support PLAINTIFF's claims for the past and future lost earnings
21 (Category Nos. 3 and 5);
- 22 • Documents evidencing and/or depicting any and all communications between
23 PLAINTIFF and any and all employees, elected officials, and any other persons working for the City
24 that pertain or relate to PLAINTIFF's MMD applications (Category No. 10);
- 25 • Documents depicting communications between PLAINTIFF and Taisha Brown, and
26 anyone else (other than PLAINTIFF's attorney), concerning PLAINTIFF's MMD applications, the
27 subject altercation, and the subject meeting preceding the altercation (Category Nos. 11-16, 18-20);

- 1 • Documents depicting communications between PLAINTIFF and anyone (other than
- 2 PLAINTIFF's attorney) concerning ARAMBULA (Category No. 17);
- 3 • Documents supporting PLAINTIFF's claims against ARAMBULA (Category No.
- 4 21); and
- 5 • Documents supporting PLAINTIFF's claims against the City (Category No. 21).

6 PLAINTIFF's failure to address the above document requests is the functional equivalent of
7 a non-opposition. (*See* Cal. Rules of Court, rule 8.54(c).) ARAMBULA's moving papers otherwise
8 satisfy his burden of providing sufficient legal and factual bases to warrant the production of the
9 requested documents.

10 **V. THE OPPOSITION CONFIRMS SANCTIONS ARE WARRANTED**

11 PLAINTIFF's opposition would have this Court believe PLAINTIFF's counsel acted
12 reasonably during deposition and the subsequent meet and confer process leading up to
13 ARAMBULA's motion. The documented facts presented in the deposition excerpts and various
14 meet and confer correspondence accompanying ARAMBULA's motion unmistakably demonstrate
15 the conduct of PLAINTIFF's counsel was anything but reasonable. Monetary sanctions are
16 warranted on myriad grounds, as explained in detail in ARAMBULA's motion. PLAINTIFF and his
17 counsel should not get a pass for obstructing the discovery process and unnecessarily forcing
18 ARAMBULA to file his motion.

19 **VI. CONCLUSION**

20 For all the foregoing reasons, and the reasons set forth in the initial moving papers,
21 ARAMBULA respectfully requests the Court grant his motion and enter an Order:

- 22 1. Requiring PLAINTIFF to answer all of the deposition questions at issue in
- 23 ARAMBULA's motion during a second volume of deposition;
- 24 2. Requiring PLAINTIFF to produce, at the time of PLAINTIFF'S second volume of
- 25 deposition, all documents in his possession, custody, and/or control that are responsive to each of
- 26 the document request categories at issue in ARAMBULA'S motion, namely, Nos. 1 through 22 of
- 27 the 26 categories in the notice of PLAINTIFF'S deposition;
- 28

1 3. Granting ARAMBULA relief from the deposition time limits prescribed under Code
2 of Civil Procedure § 2025.290(a), and allotting ARAMBULA additional time to complete his
3 questioning of PLAINTIFF bearing on the questions and document requests at issue in
4 ARAMBULA's motion, as well as related questioning concerning those topics, and follow-up
5 questioning, if any; and

6 4. Awarding ARAMBULA monetary sanctions, in the amount of **\$2,500**, payable
7 jointly and severally by PLAINTIFF and Briggs Law Corporation.

8
9 Dated: June 7, 2019

TYSON & MENDES LLP

10
11 By:  _____

SUSAN L. OLIVER

EMILY M. STRAUB

Attorneys for Defendant DAVID ARAMBULA

1 Susan L. Oliver, Esq. (Bar No. 160902)
2 Emily M. Straub, Esq. (Bar No. 259141)
3 TYSON & MENDES
4 5661 La Jolla Boulevard
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) Case No. 37-2018-00023369-CU-PO-CTL
) [Complaint Filed: May 11, 2018]
)
)
) **PROOF OF SERVICE**
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) Judge: Hon. Judith F. Hayes
) Dept: C-68
)
) Trial: December 13, 2019
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1 **PROOF OF SERVICE**

2 I, the undersigned, declare that I am over the age of 18 years and not a party to the within action
3 or proceeding. I am employed in and am a resident of San Diego County where the mailing occurs; and
4 my business address is 5661 La Jolla Blvd, La Jolla, CA 92037.

5 On June 7, 2019, I caused to be served the following document(s):

6 **REPLY BRIEF IN SUPPORT OF DEFENDANT DAVID ARAMBULA'S
7 MOTION TO COMPEL PLAINTIFF CHRISTOPHER WILLIAMS TO
8 ANSWER DEPOSITION QUESTIONS AND PRODUCE DOCUMENTS, AND
9 TO REQUEST RELIEF FROM THE SEVEN-HOUR DEPOSITION RULE**

10 on the interested parties in this action by:

11 **X OVERNIGHT MAIL:** I further declare that I am readily familiar with the firm's business
12 practice of collection and processing of overnight delivery for mailing, and that the
13 correspondence shall be deposited with the overnight delivery service, **Federal Express**, to
14 be delivered by overnight delivery to the parties at the address listed below.

15 **SERVICE LIST**

16 Cory J. Briggs, Esq. 17 Anthony N. Kim, Esq. 18 Briggs Law Corporation 19 99 East C Street, Suite 111 20 Upland, CA 91786 21 <i>Attorney for Plaintiff Christopher Williams</i>	22 Kimberly S. Oberrecht, Esq. 23 Nathaniel J. Michels, Esq. 24 Horton, Oberrecht, Kirkpatrick & Martha 25 101 W. Broadway, Suite 600 26 San Diego, California 92101 27 <i>Attorney for Defendant City of Lemon Grove</i>
28 Shawn M. Robinson, Esq. Kristen S. Steinke, Esq. Lounsbery Ferguson Altona & Peak 960 Canterbury Place, Suite 300 Escondido, CA 92025 <i>Attorney for Defendant City of Lemon Grove</i>	

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 7, 2019, at La Jolla, California.

Theresa Belchere